

By: Representatives Bell (21st), Summers

To: Workforce Development;
Appropriations

HOUSE BILL NO. 844
(As Passed the House)

1 AN ACT TO AMEND SECTION 71-5-353, MISSISSIPPI CODE OF 1972,
2 TO CREATE THE MISSISSIPPI K-12 WORKFORCE DEVELOPMENT GRANT PROGRAM
3 FUND IN THE STATE TREASURY WHICH SHALL CONSIST OF FUNDS COLLECTED
4 FROM THE MISSISSIPPI K-12 WORKFORCE DEVELOPMENT GRANT PROGRAM
5 CONTRIBUTIONS AND ANY OTHER MONIES THAT MAY BE APPROPRIATED TO IT
6 FROM THE LEGISLATURE; TO PROVIDE THAT THE STATE WORKFORCE
7 INVESTMENT BOARD CONTRIBUTIONS THAT WERE BEING DEPOSITED INTO THE
8 STATE WORKFORCE INVESTMENT BOARD BANK ACCOUNT SHALL NOW BE
9 CONTRIBUTIONS FOR THE MISSISSIPPI K-12 WORKFORCE DEVELOPMENT GRANT
10 PROGRAM AND DEPOSITED INTO THE MISSISSIPPI K-12 WORKFORCE
11 DEVELOPMENT GRANT PROGRAM FUND; TO PROVIDE THAT ADMINISTRATIVE FEE
12 COLLECTED FOR THE TRAINING PROVIDED USING THE MISSISSIPPI
13 WORKFORCE ENHANCEMENT TRAINING AND MISSISSIPPI WORKS FUNDS MAY NOT
14 BE MORE THAN FIVE PERCENT; TO PROVIDE THAT THE MISSISSIPPI
15 DEPARTMENT OF EMPLOYMENT SECURITY SHALL BE THE FISCAL AGENT FOR
16 ALL FUNDS APPROPRIATED TO IT FOR USE BY THE OFFICE OF WORKFORCE
17 DEVELOPMENT; TO CREATE A NEW SECTION THAT ESTABLISHES THE
18 MISSISSIPPI K-12 WORKFORCE DEVELOPMENT GRANT PROGRAM; TO PROVIDE
19 THAT THE PURPOSE FOR THE GRANT PROGRAM SHALL BE FOR CONSTRUCTING,
20 REMODELING, PURCHASING OR UPGRADING EQUIPMENT OR OTHERWISE
21 PROVIDING SUPPORT TO CAREER TECHNICAL CENTERS AT THE K-12
22 EDUCATION LEVEL; TO PROVIDE HOW THE PROGRAM SHALL BE FUNDED; TO
23 PROVIDE HOW A SCHOOL MAY APPLY FOR A GRANT; TO PROVIDE THAT
24 MAXIMUM AMOUNT OF FUNDS APPROPRIATED TO THE PROGRAM THAT MAY BE
25 USED FOR ADMINISTERING THE PROGRAM; TO PROVIDE THE REPORTING
26 REQUIREMENTS OF THE PROGRAM; TO AMEND SECTION 37-153-7,
27 MISSISSIPPI CODE OF 1972, TO REVISE THE REPORTING REQUIREMENTS OF
28 THE OFFICE OF WORKFORCE DEVELOPMENT; TO PROVIDE SPECIFIC POWERS
29 AND DUTIES FOR THE OFFICE OF WORKFORCE DEVELOPMENT; TO AMEND
30 SECTIONS 71-5-355, 71-5-453 AND 27-104-7, MISSISSIPPI CODE OF
31 1972, TO CONFORM TO THE PROVISIONS OF THIS ACT; TO AMEND SECTION
32 37-153-63, MISSISSIPPI CODE OF 1972, TO REMOVE THE REPEALER ON THE
33 AMERICAN RESCUE PLAN ACT (ARPA) WORKFORCE DEVELOPMENT AND
34 RETENTION ACT; TO PROVIDE THAT GRANT FUNDS SHALL BE AVAILABLE



35 UNDER THE ACT THROUGH DECEMBER 31, 2026, OR ON THE DATE OF THE
36 FUND EXPENDITURE DEADLINE PROVIDED BY THE FEDERAL GOVERNMENT,
37 WHICHEVER OCCURS LATER; TO PROVIDE THAT EACH GRANT RECIPIENT SHALL
38 CERTIFY, FOR ANY PROJECT FOR WHICH A GRANT IS AWARDED, THAT IF THE
39 PROJECT IS NOT COMPLETED BY DECEMBER 31, 2026, AND THE UNITED
40 STATES CONGRESS DOES NOT ENACT AN EXTENSION OF THE DEADLINE ON THE
41 AVAILABILITY OF ARPA FUNDS, THEN THE GRANT RECIPIENT WILL COMPLETE
42 THE PROJECT THROUGH OTHER FUNDS; AND FOR RELATED PURPOSES.

43 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

44 **SECTION 1.** Section 71-5-353, Mississippi Code of 1972, is
45 amended as follows:

46 71-5-353. (1) (a) Each employer shall pay unemployment
47 insurance contributions equal to five and four-tenths percent
48 (5.4%) of taxable wages paid by him each calendar year, except as
49 may be otherwise provided in Section 71-5-361 and except that each
50 newly subject employer shall pay unemployment insurance
51 contributions at the rate of one percent (1%) of taxable wages,
52 for his first year of liability, one and one-tenth percent (1.1%)
53 of taxable wages for his second year of liability, and one and
54 two-tenths percent (1.2%) of taxable wages for his third and
55 subsequent years of liability unless the employer's
56 experience-rating record has been chargeable throughout at least
57 the twelve (12) consecutive calendar months ending on the most
58 recent computation date at the time the rate for a year is
59 determined; thereafter the employer's contribution rate shall be
60 determined in accordance with the provisions of Section 71-5-355.

61 (b) Notwithstanding the newly subject employer
62 contribution rate provided for in paragraph (a) of this
63 subsection, the contribution rate of all newly subject employers



64 shall be reduced by seven one-hundredths of one percent (.07%) for
65 calendar year 2013 only. The contribution rate of all newly
66 subject employers shall be reduced by three one-hundredths of one
67 percent (.03%) for calendar year 2014 only. For purposes of this
68 chapter, "newly subject employers" means employers whose
69 unemployment insurance experience-rating record has not been
70 chargeable throughout at least the twelve (12) consecutive
71 calendar months ending on the most recent computation date at the
72 time the contribution rate for a year is determined.

73 (2) (a) (i) There is hereby created in the Treasury of the
74 State of Mississippi special funds to be known as the "Mississippi
75 Workforce Enhancement Training Fund" * * *, the "Mississippi Works
76 Fund" and the "Mississippi K-12 Workforce Development Grant
77 Program Fund" which consist of funds collected pursuant to
78 subsection (3) of this section and any other monies that may be
79 appropriated to the funds from the Legislature.

80 (ii) Funds collected shall initially be deposited
81 into the Mississippi Department of Employment Security bank
82 account for clearing contribution collections and subsequently
83 appropriate amounts shall be transferred to the Mississippi
84 Workforce Investment and Training Fund Holding Account described
85 in Section 71-5-453. In the event any employer pays an amount
86 insufficient to cover the total contributions due, the amounts due
87 shall be satisfied in the following order:

88 1. Unemployment contributions;



89 2. Mississippi Workforce Enhancement Training
90 contributions, * * * Mississippi K-12 Workforce Development Grant
91 Program contributions and the Mississippi Works contributions,
92 known collectively as the Mississippi Workforce Investment and
93 Training contributions, on a pro rata basis;

94 3. Interest and damages; then

95 4. Legal and processing costs.

96 The amount of unemployment insurance contributions due for
97 any period will be the amount due according to the actual
98 computations unless the employer is participating in the MLPP. In
99 that event, the amount due is the MLPP amount computed by the
100 department.

101 Cost of collection and administration of the Mississippi
102 Workforce Enhancement Training contribution, the * * * Mississippi
103 K-12 Workforce Development Grant Program contribution and the
104 Mississippi Works contribution shall be allocated based on a plan
105 approved by the United States Department of Labor (USDOL). The
106 Mississippi Community College Board shall pay the cost of
107 collecting the Mississippi Workforce Enhancement Training
108 contributions, the * * * Office of Workforce Development shall pay
109 the cost of collecting the * * * Mississippi K-12 Workforce
110 Development Grant Program contributions and the Mississippi
111 Department of Employment Security shall pay the cost of collecting
112 the Mississippi Works contributions. Payments shall be made
113 semiannually with the cost allocated to each based on a USDOL



114 approved plan on a pro rata basis, for periods ending in June and
115 December of each year. Payment shall be made by each organization
116 to the department no later than sixty (60) days after the billing
117 date. Cost shall be allocated under the USDOL's approved plan and
118 in the same ratio as each contribution type represents to the
119 total authorized by subparagraph (ii)2 of this paragraph to be
120 collected for the period.

121 (b) Mississippi Workforce Enhancement Training
122 contributions and * * * Mississippi K-12 Workforce Development
123 Grant Program contributions shall be distributed * * * for
124 calendar years * * * after calendar year 2014 as follows,
125 ninety-three and seventy-five one-hundredths percent (93.75%)
126 shall be distributed to the Mississippi Workforce Enhancement
127 Training Fund and the remainder shall be distributed to the * * *
128 Mississippi K-12 Workforce Development Grant Program Fund;
129 * * *

130 (c) All contributions collected for the State Workforce
131 Enhancement Training Fund, the * * * Mississippi K-12 Workforce
132 Development Grant Program Fund and the Mississippi Works Fund will
133 be initially deposited into the Mississippi Department of
134 Employment Security bank account for clearing contribution
135 collections and subsequently transferred to the Workforce
136 Investment and Training Holding Account and will be held by the
137 Mississippi Department of Employment Security in such account for
138 a period of not less than thirty (30) days. After such period,



139 the Mississippi Workforce Enhancement Training contributions shall
140 be transferred to the Mississippi Community College Board Treasury
141 Account, with oversight provided by the Mississippi Office of
142 Workforce Development, the * * * Mississippi K-12 Workforce
143 Development Grant Program contributions shall be transferred to
144 the Mississippi K-12 Workforce Development Grant Program Treasury
145 Account and the Mississippi Works contributions shall be
146 transferred to the Mississippi Department of Employment Security
147 Mississippi Works Treasury Account. The Mississippi K-12
148 Workforce Development Grant Program contributions and the
149 Mississippi Works contributions shall be transferred in the same
150 ratio as each contribution type represents to the total authorized
151 by paragraph (a)(ii)2 of this subsection to be collected for the
152 period and within the time frame determined by the department;
153 however, except in cases of extraordinary circumstances, these
154 funds shall be transferred within fifteen (15) days. Interest
155 earnings or interest credits on deposit amounts in the Workforce
156 Investment and Training Holding Account shall be retained in the
157 account to pay the banking costs of the account. If after the
158 period of twelve (12) months interest earnings less banking costs
159 exceeds Ten Thousand Dollars (\$10,000.00), such excess amounts
160 shall be transferred to the respective accounts within thirty (30)
161 days following the end of each calendar year on the basis
162 described in paragraph (b) of this subsection. Interest earnings
163 and/or interest credits for the * * * Mississippi K-12 Workforce



164 Development Grant Program funds shall be used for the payment of
165 banking costs and excess amounts shall be used in accordance with
166 the rules and regulations of the * * * Mississippi K-12 Workforce
167 Development Grant Program created in Section 2 of this act.

168 (d) All enforcement procedures for the collection of
169 delinquent unemployment contributions contained in Sections
170 71-5-363 through 71-5-383 shall be applicable in all respects for
171 collections of delinquent unemployment insurance contributions
172 designated for the Unemployment Compensation Fund, the Mississippi
173 Workforce Enhancement Training Fund, the * * * Mississippi K-12
174 Workforce Development Grant Program Fund and the Mississippi Works
175 Fund.

176 (e) (i) Except as otherwise provided for in this
177 subparagraph (i), all monies deposited into the Mississippi
178 Workforce Enhancement Training Fund Treasury Account shall be
179 directed by the Mississippi Office of Workforce Development, in
180 collaboration with the Mississippi Community College Board, in
181 accordance with the Workforce Training Act of 1994 (Section
182 37-153-1 et seq.) and under policies approved by the Mississippi
183 Office of Workforce Development for the following purposes: to
184 provide training in collaboration with the Mississippi Community
185 College Board and individual community and junior colleges to
186 employers and employees in order to enhance employee productivity.
187 Such training may be subject to a minimal administrative fee of
188 not more than five percent (5%) to be paid from the Mississippi



189 Workforce Enhancement Training Fund as established by the Office
190 of Workforce Development. The initial priority of these funds
191 shall be for the benefit of existing businesses located within the
192 state. Employers may request training for existing employees
193 and/or newly hired employees from the Mississippi Office of
194 Workforce Development. The office, in consultation with the
195 Mississippi Community College Board, will be responsible for
196 approving the training. A portion of the funds collected for the
197 Mississippi Workforce Enhancement Training Fund shall be used for
198 the development of performance measures to measure the
199 effectiveness of the use of the Mississippi Workforce Enhancement
200 Training Fund dollars. These performance measures shall be
201 uniform for all training projects and shall be reported to the
202 Governor, Lieutenant Governor, Speaker of the House, and members
203 of the Legislature. Nothing in this section or elsewhere in law
204 shall be interpreted as giving the Office of Workforce Development
205 or State Workforce Investment Board authority to direct the
206 Mississippi Community College Board or individual community or
207 junior colleges on how to expend other funds, aside from funds
208 appropriated to the Mississippi Workforce Enhancement Training
209 Fund and Mississippi Works Fund, appropriated or received for
210 workforce training. The Mississippi Office of Workforce
211 Development, Mississippi Community College Board, individual
212 community or junior colleges, State Workforce Investment Board and
213 other agencies implementing or coordinating state-funded workforce



214 development programs under state law shall cooperate with each
215 other to promote effective workforce training in Mississippi,
216 under the direction of the office. Any subsequent changes to
217 these performance measures shall also be reported to the Governor,
218 Lieutenant Governor, Speaker of the House, and members of the
219 Legislature. A performance report for each training project and
220 community college, based upon these measures, shall be submitted
221 annually to the Governor, Lieutenant Governor, Speaker of the
222 House, and members of the Legislature.

223 (ii) Except as otherwise provided in this
224 paragraph (e), all funds deposited into the * * * Mississippi K-12
225 Workforce Development Grant Program Fund shall be used for
226 administration of * * * the Mississippi K-12 Workforce Development
227 Grant Program created in Section 2 of this act. Any funds
228 remaining in the State Workforce Investment board bank account on
229 June 30, 2023, shall be transferred to the Mississippi K-12
230 Workforce Development Grant Program Fund.

231 (iii) All funds deposited into the Mississippi
232 Department of Employment Security Mississippi Works Fund shall be
233 disbursed exclusively by the Executive Director of the Mississippi
234 Department of Employment Security, in accordance with the rules
235 and regulations promulgated by the Office of Workforce
236 Development, in support of workforce training activities approved
237 by the Mississippi Office of Workforce Development in support of
238 economic development activities. Funds allocated by the executive



239 director under this subparagraph (iii) shall only be utilized for
240 the training of unemployed persons, for immediate training needs
241 for the net new jobs created by an employer, for the retention of
242 jobs, to create a work-ready applicant pool of Mississippians with
243 credentials and/or postsecondary education in accordance with the
244 state's Workforce Investment and Opportunity Act plan, or for the
245 support of local economic and community development activities
246 related to workforce development in the state. The Mississippi
247 Office of Workforce Development, in collaboration with the
248 Mississippi Public Community College System and its partners,
249 shall be the primary entity to facilitate training. Training
250 conducted utilizing these Mississippi Works funds may be subject
251 to a minimal administrative fee of not more than five percent (5%)
252 to be paid from the Mississippi Works Fund as authorized by the
253 Mississippi Office of Workforce Development. All costs associated
254 with the administration of these funds shall be reimbursed to the
255 Mississippi Department of Employment Security from the Mississippi
256 Works Fund.

257 (iv) 1. The Department of Employment Security
258 shall be the fiscal agent for the receipt and disbursement of all
259 funds remaining in the State Workforce Investment Board bank
260 account, subject to the administrative oversight of the Office of
261 Workforce Development. The Mississippi Department of Employment
262 Security shall be the fiscal agent for all funds appropriated to
263 it for use by the Office of Workforce Development.



264 2. * * * The Office of Workforce Development,
265 in coordination with the Mississippi Department of Employment
266 Security as fiscal agent, shall ensure that any funds expended for
267 contractual services rendered to the Office of Workforce
268 Development over Five Thousand Dollars (\$5,000.00) shall be paid
269 only to service providers who have been selected on a competitive
270 basis. Any contract for services entered into using funds * * *
271 appropriated to the Mississippi Department of Employment Security
272 for the Office of Workforce Development shall meet the
273 requirements for state contracts set out in Section 31-7-1 et seq.

274 3. Any commodities procured for the office
275 shall be procured in accordance with the provisions of Section
276 31-7-13.

277 * * *

278 (3) (a) (i) Mississippi Workforce Enhancement Training
279 contributions and * * * Mississippi K-12 Workforce Development
280 Grant Program contributions shall be collected * * * for calendar
281 years * * * after calendar year 2016 * * * at a rate of twenty
282 one-hundredths percent (.20%), based upon taxable wages, of which
283 fifteen one-hundredths percent (.15%) shall be the Workforce
284 Enhancement Training contribution, one-hundredths of one percent
285 (.01%) shall be the * * * Mississippi K-12 Workforce Development
286 Grant Program contribution and four one-hundredths percent (.04%)
287 shall be the Mississippi Works contribution. The Mississippi
288 Works contribution shall be collected for calendar years in which



289 the general experience ratio, adjusted on the basis of the trust
290 fund adjustment factor and reduced by fifty percent (50%), results
291 in a general experience rate of less than two-tenths percent
292 (.2%). In all other years the Mississippi Works contribution
293 shall not be in effect.

294 (iii) The Mississippi Workforce Enhancement
295 Training Fund contribution, the * * * Mississippi K-12 Workforce
296 Development Grant Program Fund contribution and the Mississippi
297 Works contribution shall be in addition to the general experience
298 rate plus the individual experience rate of all employers but
299 shall not be charged to reimbursing or rate-paying political
300 subdivisions or institutions of higher learning, or reimbursing
301 nonprofit organizations, as described in Sections 71-5-357 and
302 71-5-359.

303 (b) All Mississippi Workforce Enhancement Training
304 contributions, * * * Mississippi K-12 Workforce Development Grant
305 Program contributions and Mississippi Works contributions
306 collected shall be deposited initially into the Mississippi
307 Department of Employment Security bank account for clearing
308 contribution collections and shall within two (2) business days be
309 transferred to the Workforce Investment and Training Holding
310 Account. Any Mississippi Workforce Enhancement Training Fund
311 and/or * * * Mississippi K-12 Workforce Development Grant Program
312 Fund and/or Mississippi Works Fund transactions from the
313 Mississippi Department of Employment Security bank account for



314 clearing contribution collections that are deposited into the
315 Workforce Investment and Training Fund Holding Account and are not
316 honored by a financial institution will be transferred back to the
317 Mississippi Department of Employment Security bank account for
318 clearing contribution collections out of funds in the Mississippi
319 Workforce Investment and Training Fund Holding Account.

320 (c) Suspension of the Workforce Enhancement Training
321 Fund contributions required pursuant to this chapter shall occur
322 if the insured unemployment rate exceeds an average of five and
323 five-tenths percent (5.5%) for the three (3) consecutive months
324 immediately preceding the effective date of the new rate year
325 following such occurrence and shall remain suspended throughout
326 the duration of that rate year. Such suspension shall continue
327 until such time as the three (3) consecutive months immediately
328 preceding the effective date of the next rate year that has an
329 insured unemployment rate of less than an average of four and
330 five-tenths percent (4.5%). Upon such occurrence, reactivation
331 shall be effective upon the first day of the rate year following
332 the event that lifts suspension and shall be in effect for that
333 year and shall continue until such time as a subsequent suspension
334 event as described in this chapter occurs.

335 (d) Notwithstanding any other provision contained
336 herein, contribution collections for the * * * Mississippi K-12
337 Workforce Development Grant Program Fund, Mississippi Works Fund
338 and Mississippi Workforce Enhancement Training Fund shall not be



339 suspended, under any circumstances, for tax rate year 2021, and
340 the resulting contribution rate of twenty one-hundredths percent
341 (.20%) shall be added to the employer's general and individual
342 experience rate to obtain the total unemployment insurance rate
343 for 2021.

344 (4) All collections due or accrued prior to any suspension
345 of the Mississippi Workforce Enhancement Training Fund will be
346 collected based upon the law at the time the contributions
347 accrued, regardless of when they are actually collected.

348 **SECTION 2.** (1) The Office of Workforce Development shall
349 establish and administer the Mississippi K-12 Workforce
350 Development Grant Program for the purpose of constructing,
351 remodeling, purchasing or upgrading equipment or otherwise
352 providing support to career technical centers at the K-12
353 education level. The grant program shall be funded from the
354 Mississippi K-12 Workforce Development Grant Program Fund as
355 provided in Section 71-5-353 and any other monies appropriated by
356 the Legislature for that purpose.

357 (2) The Office of Workforce Development shall prescribe the
358 terms and conditions of the grant program. To be eligible to
359 receive a grant from the Office of Workforce Development under the
360 grant program, a school at the K-12 education level shall provide
361 the following information:

362 (a) The number of students enrolled in the workforce
363 development program for which the funds will be used;



364 (b) The purpose of the program;
365 (c) Whether the program fits into the ecosystem for the
366 training needs in the area;
367 (d) Evidence of the school's local involvement with
368 industry partners in the area; and
369 (e) Any other information that the office determines is
370 necessary.

371 (3) The Office of Workforce Development may use a maximum of
372 five percent (5%) of funds appropriated for the program for the
373 administration of the program.

374 (4) The Office of Workforce Development shall comply with
375 the reporting requirements provided in Section 37-153-7. Each
376 school that received grants from the program shall assist the
377 office in completing the reporting requirement.

378 **SECTION 3.** Section 37-153-7, Mississippi Code of 1972, is
379 amended as follows:

380 37-153-7. (1) There is created the Mississippi Office of
381 Workforce Development and the Mississippi State Workforce
382 Investment Board, which shall serve as the advisory board for the
383 office. The Mississippi State Workforce Investment Board shall be
384 composed of thirty-one (31) voting members, of which a majority
385 shall be representatives of business and industry in accordance
386 with the federal Workforce Innovation and Opportunity Act, or any
387 successive acts.



388 (2) The members of the State Workforce Investment Board
389 shall include:

390 (a) The Governor, or his designee;

391 (b) Nineteen (19) members, appointed by the Governor,
392 of whom:

393 (i) A majority shall be representatives of
394 businesses in the state, who:

395 1. Are owners of businesses, chief executives
396 or operating officers of businesses, or other business executives
397 or employers with optimum policymaking or hiring authority, and
398 who, in addition, may be members of a local board described in
399 Section 3122(b)(2)(A)(i) of the federal Workforce Innovation and
400 Opportunity Act. At least two (2) of the members appointed under
401 this item 1. shall be small business owners, chief executives or
402 operating officers of businesses with less than fifty (50)
403 employees;

404 2. Represent businesses, including small
405 businesses, or organizations representing businesses, which
406 provide employment opportunities that, at a minimum, include
407 high-quality, work-relevant training and development in
408 high-demand industry sectors or occupations in the state; and

409 3. Are appointed from among individuals
410 nominated by state business organizations and business trade
411 associations;



412 (ii) Not less than twenty percent (20%) shall
413 consist of representatives of the workforce within the state,
414 which:

415 1. Includes labor organization
416 representatives who have been nominated by state labor
417 federations;

418 2. Includes a labor organization member or
419 training director from an apprenticeship program in the state,
420 which shall be a joint labor-management apprenticeship program if
421 such a program exists in the state;

422 3. May include representatives of
423 community-based organizations, including organizations serving
424 veterans or providing or supporting competitive, integrated
425 employment for individuals with disabilities, who have
426 demonstrated experience and expertise in addressing employment,
427 training or education needs of individuals with barriers to
428 employment; and

429 4. May include representatives of
430 organizations, including organizations serving out-of-school
431 youth, who have demonstrated experience or expertise in addressing
432 the employment, training or education needs of eligible youth;

433 (iii) The balance shall include government
434 representatives, including the lead state officials with primary
435 responsibility for core programs, and chief elected officials



436 (collectively representing both cities and counties, where
437 appropriate);

438 (c) Two (2) representatives of businesses in the state
439 appointed by the Lieutenant Governor;

440 (d) Two (2) representatives of businesses in the state
441 appointed by the Governor from a list of three (3) recommendations
442 from the Speaker of the House; and

443 (e) The following state officials:

444 (i) The Executive Director of the Mississippi
445 Department of Employment Security;

446 (ii) The Executive Director of the Department of
447 Rehabilitation Services;

448 (iii) The State Superintendent of Public
449 Education;

450 (iv) The Executive Director of the Mississippi
451 Development Authority;

452 (v) The Executive Director of the Mississippi
453 Community College Board;

454 (vi) The President of the Community College
455 Association; and

456 (vii) The Commissioner of the Institutions of
457 Higher Learning.

458 (f) One (1) senator, appointed by the Lieutenant
459 Governor, and one (1) representative, appointed by the Speaker of
460 the House, shall serve on the state board in a nonvoting capacity.



461 (g) The Governor may appoint additional members if
462 required by the federal Workforce Innovation and Opportunity Act,
463 or any successive acts.

464 (h) Members of the board shall serve a term of four (4)
465 years, and shall not serve more than three (3) consecutive terms.

466 (i) The membership of the board shall reflect the
467 diversity of the State of Mississippi.

468 (j) The Governor shall designate the Chairman of the
469 Mississippi State Workforce Investment Board from among the
470 business and industry voting members of the board, and a quorum of
471 the board shall consist of a majority of the voting members of the
472 board.

473 (k) The voting members of the board who are not state
474 employees shall be entitled to reimbursement of their reasonable
475 expenses in the manner and amount specified in Section 25-3-41 and
476 shall be entitled to receive per diem compensation as authorized
477 in Section 25-3-69.

478 (3) Members of the state board may be recalled by their
479 appointing authority for cause, including a felony conviction,
480 fraudulent or dishonest acts or gross abuse of discretion, failure
481 to meet board member qualifications, or chronic failure to attend
482 board meetings.

483 (4) The Mississippi Department of Employment Security shall
484 establish limits on administrative costs for each portion of
485 Mississippi's workforce development system consistent with the



486 federal Workforce Investment Act or any future federal workforce
487 legislation.

488 (5) The Mississippi State Workforce Investment Board shall
489 have the following duties. These duties are intended to be
490 consistent with the scope of duties provided in the federal
491 Workforce Innovation and Opportunity Act, amendments and successor
492 legislation to this act, and other relevant federal law:

493 (a) Through the office, develop and submit to the
494 Governor, Lieutenant Governor and Speaker of the House a strategic
495 plan for an integrated state workforce development system that
496 aligns resources and structures the system to more effectively and
497 efficiently meet the demands of Mississippi's employers and job
498 seekers. This plan will comply with the federal Workforce
499 Investment Act of 1998, as amended, the federal Workforce
500 Innovation and Opportunity Act of 2014 and amendments and
501 successor legislation to these acts;

502 (b) Assist the Governor, Lieutenant Governor and
503 Speaker of the House in the development and continuous improvement
504 of the statewide workforce investment system that shall include:

505 (i) Development of linkages in order to assure
506 coordination and nonduplication among programs and activities; and

507 (ii) Review local workforce development plans that
508 reflect the use of funds from the federal Workforce Investment
509 Act, Workforce Innovation and Opportunity Act, the Wagner-Peyser
510 Act and the amendment or successor legislation to the acts, and



511 the Mississippi Comprehensive Workforce Training and Education
512 Consolidation Act;

513 (c) Recommend to the office the designation of local
514 workforce investment areas as required in Section 116 of the
515 federal Workforce Investment Act of 1998 and the Workforce
516 Innovation and Opportunity Act of 2014. There shall be four (4)
517 workforce investment areas that are generally aligned with the
518 planning and development district structure in Mississippi.
519 Planning and development districts will serve as the fiscal agents
520 to manage Workforce Investment Act funds, oversee and support the
521 local workforce investment boards aligned with the area and the
522 local programs and activities as delivered by the one-stop
523 employment and training system. The planning and development
524 districts will perform this function through the provisions of the
525 county cooperative service districts created under Sections
526 19-3-101 through 19-3-115; however, planning and development
527 districts currently performing this function under the Interlocal
528 Cooperation Act of 1974, Sections 17-13-1 through 17-13-17, may
529 continue to do so;

530 (d) Assist the Governor in the development of an
531 allocation formula for the distribution of funds for adult
532 employment and training activities and youth activities to local
533 workforce investment areas;



534 (e) Recommend comprehensive, results-oriented measures
535 that shall be applied to all of Mississippi's workforce
536 development system programs;

537 (f) Assist the Governor in the establishment and
538 management of a one-stop employment and training system conforming
539 to the requirements of the federal Workforce Investment Act of
540 1998 and the Workforce Innovation and Opportunity Act of 2014, as
541 amended, recommending policy for implementing the Governor's
542 approved plan for employment and training activities and services
543 within the state. In developing this one-stop career operating
544 system, the Mississippi State Workforce Investment Board, in
545 conjunction with local workforce investment boards, shall:

546 (i) Design broad guidelines for the delivery of
547 workforce development programs;

548 (ii) Identify all existing delivery agencies and
549 other resources;

550 (iii) Define appropriate roles of the various
551 agencies to include an analysis of service providers' strengths
552 and weaknesses;

553 (iv) Determine the best way to utilize the various
554 agencies to deliver services to recipients; and

555 (v) Develop a financial plan to support the
556 delivery system that shall, at a minimum, include an
557 accountability system;



558 (g) To provide authority, in accordance with any
559 executive order of the Governor, for developing the necessary
560 collaboration among state agencies at the highest level for
561 accomplishing the purposes of this article;

562 (h) To monitor the effectiveness of the workforce
563 development centers and WIN job centers;

564 (i) To advise the Governor, public schools,
565 community/junior colleges and institutions of higher learning on
566 effective school-to-work transition policies and programs that
567 link students moving from high school to higher education and
568 students moving between community colleges and four-year
569 institutions in pursuit of academic and technical skills training;

570 (j) To work with industry to identify barriers that
571 inhibit the delivery of quality workforce education and the
572 responsiveness of educational institutions to the needs of
573 industry;

574 (k) To provide periodic assessments on effectiveness
575 and results of the overall Mississippi comprehensive workforce
576 development system and district councils;

577 (l) Develop broad statewide development goals,
578 including a goal to raise the state's labor force participation
579 rate;

580 (m) Perform a comprehensive review of Mississippi's
581 workforce development efforts, including the amount spent and
582 effectiveness of programs supported by state or federal money; and



583 (n) To assist the Governor in carrying out any other
584 responsibility required by the federal Workforce Investment Act of
585 1998, as amended and the Workforce Innovation and Opportunity Act,
586 successor legislation and amendments.

587 (6) The Mississippi State Workforce Investment Board shall
588 coordinate all training programs and funds within its purview,
589 consistent with the federal Workforce Investment Act, Workforce
590 Innovation and Opportunity Act, amendments and successor
591 legislation to these acts, and other relevant federal law.

592 Each state agency director responsible for workforce training
593 activities shall advise the Mississippi Office of Workforce
594 Development and the State Workforce Investment Board of
595 appropriate federal and state requirements. Each state agency,
596 department and institution shall report any monies received for
597 workforce training activities or career and technical education
598 and a detailed itemization of how those monies were spent to the
599 state board. The board shall compile the data and provide a
600 report of the monies and expenditures to the Chairs of the House
601 and Senate Appropriations Committee, the Chair of the House
602 Workforce Development Committee and the Chair of the Senate
603 Economic and Workforce Development Committee by October 1 of each
604 year. Each such state agency director shall remain responsible
605 for the actions of his agency; however, each state agency and
606 director shall work cooperatively to fulfill the state's goals.



607 (7) The State Workforce Investment Board shall establish an
608 executive committee, which shall consist of the following State
609 Workforce Investment Board members:

610 (a) The Chair of the State Workforce Investment Board;

611 (b) Two (2) business representatives currently serving
612 on the state board selected by the Governor;

613 (c) The two (2) business representatives currently
614 serving on the state board appointed by the Lieutenant Governor;

615 (d) The two (2) business representatives currently
616 serving on the state board appointed by the Governor from a list
617 of three (3) recommendations from the Speaker of the House;

618 (e) The two (2) legislators, who shall serve in a
619 nonvoting capacity, one (1) of whom shall be appointed by the
620 Lieutenant Governor from the membership of the Mississippi Senate
621 and one (1) of whom shall be appointed by the Speaker of the House
622 of Representatives from the membership of the Mississippi House of
623 Representatives.

624 (8) The executive committee shall select an executive
625 director of the Office of Workforce Development, with the advice
626 and consent of a majority of the State Workforce Investment Board.
627 The executive committee shall seek input from economic development
628 organizations across the state when selecting the executive
629 director. The executive director shall:

630 (a) Be a person with extensive experience in
631 development of economic, human and physical resources, and



632 promotion of industrial and commercial development. The executive
633 director shall have a bachelor's degree from a state-accredited
634 institution and no less than eight (8) years of professional
635 experience related to workforce or economic development;

636 (b) Perform the functions necessary for the daily
637 operation and administration of the office, with oversight from
638 the executive committee and the State Workforce Investment Board,
639 to fulfill the duties of the state board as described in Chapter
640 476, Laws of 2020;

641 (c) Hire staff needed for the performance of his or her
642 duties under Chapter 476, Laws of 2020. The executive director,
643 with approval from the executive committee, shall set the
644 compensation of any hired employees from any funds made available
645 for that purpose;

646 (d) Enter any part of the Mississippi Community College
647 Board, individual community and junior colleges, or other
648 workforce training facilities operated by the state or its
649 subdivisions;

650 (e) Serve at the will and pleasure of the executive
651 committee;

652 (f) Promulgate rules and regulations, subject to
653 oversight by the executive committee, not inconsistent with this
654 article, as may be necessary to enforce the provisions in Chapter
655 476, Laws of 2020; and



656 (g) Perform any other actions he or she, in
657 consultation with the executive committee, deems necessary to
658 fulfill the duties under Chapter 476, Laws of 2020.

659 (9) The Office of Workforce Development and Mississippi
660 Community College Board shall collaborate in the administration
661 and oversight of the Mississippi Workforce Enhancement Training
662 Fund and Mississippi Works Fund, as described in Section 71-5-353.
663 The executive director shall maintain complete and exclusive
664 operational control of the office's functions.

665 (10) The office shall file an annual and a quarterly report
666 each year with the Governor, Secretary of State, President of the
667 Senate, * * * Speaker of the House, * * * Chairman of the House
668 Workforce Development Committee and Chairman of the Senate
669 Economic and Workforce Development Committee. The annual report
670 shall be filed not later than October 1 of each year regarding all
671 funds approved by the office to be expended on workforce training
672 during the prior calendar year. The quarterly and annual report
673 shall include:

674 (a) Information on the performance of the Mississippi
675 Workforce Enhancement Training Fund and the Mississippi Works
676 Fund, in terms of adding value to the local and state economy, the
677 contribution to future growth of the state economy, and movement
678 toward state goals, including increasing the labor force
679 participation rate; * * *



680 (b) With respect to specific workforce training
681 projects:

- 682 (i) The location of the training;
- 683 (ii) The amount allocated to the project;
- 684 (iii) The purpose of the project;
- 685 (iv) The specific business entity that is the
686 beneficiary of the project; * * *
- 687 (v) The number of employees intended to be trained
688 and actually trained, if applicable, in the course of the
689 project * * *; and
- 690 (vi) The types of funds used for the project;

691 (c) With respect to the grants that have been awarded
692 under the Mississippi K-12 Workforce Development Grant Program
693 created in Section 2 of this act:

- 694 (i) The entity that was awarded the grant;
- 695 (ii) The amount allocated to the grant;
- 696 (iii) The purpose of the grant; and
- 697 (iv) How the grant has been used since it was
698 awarded; and

699 (d) With respect to the office's authority to select
700 tools and resources, including necessary online platforms and
701 similar systems in furtherance of the mission of the office:

- 702 (i) The policies that the office has adopted or
703 amended on the process for the selection of tools and resources,



704 including necessary online platforms and similar systems in
705 furtherance of the mission of the office;

706 (ii) The eligible entities that the office
707 determined may provide services, such as companies, nonprofit
708 organizations, or other similar groups;

709 (iii) Any tools and resources, including necessary
710 online platforms and similar systems in furtherance of the mission
711 of the office, that have been selected by the office; and

712 (iv) What entity received the benefit of the tools
713 and resources that were selected.

714 All information concerning a proposed project which is
715 provided to the executive director shall be kept confidential.
716 Such confidentiality shall not limit disclosure under the
717 Mississippi Public Records Act of 1983 of records describing the
718 nature, quantity, cost or other pertinent information related to
719 the activities of, or services performed using, the Mississippi
720 Workforce Enhancement Training Fund or the Mississippi Works Fund.

721 (11) In addition to other powers and duties provided in this
722 section, the Office of Workforce Development shall also have the
723 following powers and duties:

724 (a) Direct access to accounting and banking statements
725 for all funds under its direction to ensure accurate and efficient
726 management of funds and to improve internal control;

727 (b) The ability to enter into nondisclosure agreements
728 to effectively support economic development activities and the



729 proprietary nature of customized training for existing and new
730 industry;

731 (c) To adopt and promulgate such rules and regulations
732 as may be necessary or desirable for the purpose of implementing
733 the Mississippi K-12 Workforce Development Grant Program created
734 in Section 2 of this act;

735 (d) To receive contributions, donations, gifts,
736 bequests of money, other forms of financial assistance and
737 property, equipment, materials or manpower from persons,
738 foundations, trust funds, corporations, organizations and other
739 sources, public or private, made to the office, and may expend or
740 use the same in accordance with the conditions prescribed by the
741 donor, provided that no such condition is contrary to any
742 provision of law;

743 (e) To contract with state agencies, governing
744 authorities or economic and workforce development entities for
745 shared programmatic efforts and support service or joint
746 employment of personnel in order to further the office's purposes;
747 and

748 (f) To determine, subject to appropriation, the need
749 for and, if desired, the selection of tools and resources,
750 including necessary online platforms and similar systems in
751 furtherance of the mission of the office, through processes
752 established in policies adopted by the office that are deemed to
753 be practical, feasible and in the public interest. These



754 processes shall outline eligible entities that may provide such
755 services, such as companies, nonprofit organizations, or other
756 similar groups and shall ensure the office determines metrics for
757 success, including deliverables as required by the office.

758 Through December 31, 2024, the provisions of Section 27-104-7
759 related to rental agreements or leasing of real property for the
760 purpose of conducting agency business shall not apply to the
761 office.

762 (* * *12) Nothing in Chapter 476, Laws of 2020 [Senate Bill
763 No. 2564] shall void or otherwise interrupt any contract, lease,
764 grant or other agreement previously entered into by the State
765 Workforce Investment Board, Mississippi Community College Board,
766 individual community or junior colleges, or other entities.

767 **SECTION 4.** Section 27-104-7, Mississippi Code of 1972, is
768 amended as follows:

769 27-104-7. (1) (a) There is created the Public Procurement
770 Review Board, which shall be reconstituted on January 1, 2018, and
771 shall be composed of the following members:

772 (i) Three (3) individuals appointed by the
773 Governor with the advice and consent of the Senate;

774 (ii) Two (2) individuals appointed by the
775 Lieutenant Governor with the advice and consent of the Senate; and

776 (iii) The Executive Director of the Department of
777 Finance and Administration, serving as an ex officio and nonvoting
778 member.



779 (b) The initial terms of each appointee shall be as
780 follows:

781 (i) One (1) member appointed by the Governor to
782 serve for a term ending on June 30, 2019;

783 (ii) One (1) member appointed by the Governor to
784 serve for a term ending on June 30, 2020;

785 (iii) One (1) member appointed by the Governor to
786 serve for a term ending on June 30, 2021;

787 (iv) One (1) member appointed by the Lieutenant
788 Governor to serve for a term ending on June 30, 2019; and

789 (v) One (1) member appointed by the Lieutenant
790 Governor to serve for a term ending on June 30, 2020.

791 After the expiration of the initial terms, all appointed
792 members' terms shall be for a period of four (4) years from the
793 expiration date of the previous term, and until such time as the
794 member's successor is duly appointed and qualified.

795 (c) When appointing members to the Public Procurement
796 Review Board, the Governor and Lieutenant Governor shall take into
797 consideration persons who possess at least five (5) years of
798 management experience in general business, health care or finance
799 for an organization, corporation or other public or private
800 entity. Any person, or any employee or owner of a company, who
801 receives any grants, procurements or contracts that are subject to
802 approval under this section shall not be appointed to the Public
803 Procurement Review Board. Any person, or any employee or owner of



804 a company, who is a principal of the source providing a personal
805 or professional service shall not be appointed to the Public
806 Procurement Review Board if the principal owns or controls a
807 greater than five percent (5%) interest or has an ownership value
808 of One Million Dollars (\$1,000,000.00) in the source's business,
809 whichever is smaller. No member shall be an officer or employee
810 of the State of Mississippi while serving as a voting member on
811 the Public Procurement Review Board.

812 (d) Members of the Public Procurement Review Board
813 shall be entitled to per diem as authorized by Section 25-3-69 and
814 travel reimbursement as authorized by Section 25-3-41.

815 (e) The members of the Public Procurement Review Board
816 shall elect a chair from among the membership, and he or she shall
817 preside over the meetings of the board. The board shall annually
818 elect a vice chair, who shall serve in the absence of the chair.
819 No business shall be transacted, including adoption of rules of
820 procedure, without the presence of a quorum of the board. Three
821 (3) members shall be a quorum. No action shall be valid unless
822 approved by a majority of the members present and voting, entered
823 upon the minutes of the board and signed by the chair. Necessary
824 clerical and administrative support for the board shall be
825 provided by the Department of Finance and Administration. Minutes
826 shall be kept of the proceedings of each meeting, copies of which
827 shall be filed on a monthly basis with the chairs of the
828 Accountability, Efficiency and Transparency Committees of the



829 Senate and House of Representatives and the chairs of the
830 Appropriations Committees of the Senate and House of
831 Representatives.

832 (2) The Public Procurement Review Board shall have the
833 following powers and responsibilities:

834 (a) Approve all purchasing regulations governing the
835 purchase or lease by any agency, as defined in Section 31-7-1, of
836 commodities and equipment, except computer equipment acquired
837 pursuant to Sections 25-53-1 through 25-53-29;

838 (b) Adopt regulations governing the approval of
839 contracts let for the construction and maintenance of state
840 buildings and other state facilities as well as related contracts
841 for architectural and engineering services.

842 The provisions of this paragraph (b) shall not apply to such
843 contracts involving buildings and other facilities of state
844 institutions of higher learning which are self-administered as
845 provided under this paragraph (b) or Section 37-101-15(m);

846 (c) Adopt regulations governing any lease or rental
847 agreement by any state agency or department, including any state
848 agency financed entirely by federal funds, for space outside the
849 buildings under the jurisdiction of the Department of Finance and
850 Administration. These regulations shall require each agency
851 requesting to lease such space to provide the following
852 information that shall be published by the Department of Finance
853 and Administration on its website: the agency to lease the space;



854 the terms of the lease; the approximate square feet to be leased;
855 the use for the space; a description of a suitable space; the
856 general location desired for the leased space; the contact
857 information for a person from the agency; the deadline date for
858 the agency to have received a lease proposal; any other specific
859 terms or conditions of the agency; and any other information
860 deemed appropriate by the Division of Real Property Management of
861 the Department of Finance and Administration or the Public
862 Procurement Review Board. The information shall be provided
863 sufficiently in advance of the time the space is needed to allow
864 the Division of Real Property Management of the Department of
865 Finance and Administration to review and preapprove the lease
866 before the time for advertisement begins;

867 (d) Adopt, in its discretion, regulations to set aside
868 at least five percent (5%) of anticipated annual expenditures for
869 the purchase of commodities from minority businesses; however, all
870 such set-aside purchases shall comply with all purchasing
871 regulations promulgated by the department and shall be subject to
872 all bid requirements. Set-aside purchases for which competitive
873 bids are required shall be made from the lowest and best minority
874 business bidder; however, if no minority bid is available or if
875 the minority bid is more than two percent (2%) higher than the
876 lowest bid, then bids shall be accepted and awarded to the lowest
877 and best bidder. However, the provisions in this paragraph shall
878 not be construed to prohibit the rejection of a bid when only one



879 (1) bid is received. Such rejection shall be placed in the
880 minutes. For the purposes of this paragraph, the term "minority
881 business" means a business which is owned by a person who is a
882 citizen or lawful permanent resident of the United States and who
883 is:

884 (i) Black: having origins in any of the black
885 racial groups of Africa;

886 (ii) Hispanic: of Mexican, Puerto Rican, Cuban,
887 Central or South American, or other Spanish or Portuguese culture
888 or origin regardless of race;

889 (iii) Asian-American: having origins in any of
890 the original people of the Far East, Southeast Asia, the Indian
891 subcontinent, or the Pacific Islands;

892 (iv) American Indian or Alaskan Native: having
893 origins in any of the original people of North America; or

894 (v) Female;

895 (e) In consultation with and approval by the Chairs of
896 the Senate and House Public Property Committees, approve leases,
897 for a term not to exceed eighteen (18) months, entered into by
898 state agencies for the purpose of providing parking arrangements
899 for state employees who work in the Woolfolk Building, the Carroll
900 Gartin Justice Building or the Walter Sillers Office Building;

901 (f) Promulgate rules and regulations governing the
902 solicitation and selection of contractual services personnel,
903 including personal and professional services contracts for any



904 form of consulting, policy analysis, public relations, marketing,
905 public affairs, legislative advocacy services or any other
906 contract that the board deems appropriate for oversight, with the
907 exception of any personal service contracts entered into by any
908 agency that employs only nonstate service employees as defined in
909 Section 25-9-107(c), any personal service contracts entered into
910 for computer or information technology-related services governed
911 by the Mississippi Department of Information Technology Services,
912 any personal service contracts entered into by the individual
913 state institutions of higher learning, any personal service
914 contracts entered into by the Mississippi Department of
915 Transportation, any personal service contracts entered into by the
916 Department of Human Services through June 30, 2019, which the
917 Executive Director of the Department of Human Services determines
918 would be useful in establishing and operating the Department of
919 Child Protection Services, any personal service contracts entered
920 into by the Department of Child Protection Services through June
921 30, 2019, any contracts for entertainers and/or performers at the
922 Mississippi State Fairgrounds entered into by the Mississippi Fair
923 Commission, any contracts entered into by the Department of
924 Finance and Administration when procuring aircraft maintenance,
925 parts, equipment and/or services, any contract entered into by the
926 Department of Public Safety for service on specialized equipment
927 and/or software required for the operation at such specialized
928 equipment for use by the Office of Forensics Laboratories, any



929 personal or professional service contract entered into by the
930 Mississippi Department of Health and/or the Department of Revenue
931 solely in connection with their respective responsibilities under
932 the Mississippi Medical Cannabis Act from February 2, 2022,
933 through June 30, 2023, any contract for attorney, accountant,
934 actuary auditor, architect, engineer, anatomical pathologist,
935 utility rate expert services, any personal service contracts
936 approved by the Executive Director of the Department of Finance
937 and Administration and entered into by the Coordinator of Mental
938 Health Accessibility through June 30, 2022, any personal or
939 professional services contract entered into by the State
940 Department of Health in carrying out its responsibilities under
941 the ARPA Rural Water Associations Infrastructure Grant Program
942 through June 30, 2026, and any personal or professional services
943 contract entered into by the Mississippi Department of
944 Environmental Quality in carrying out its responsibilities under
945 the Mississippi Municipality and County Water Infrastructure Grant
946 Program Act of 2022, through June 30, 2026. Any such rules and
947 regulations shall provide for maintaining continuous internal
948 audit covering the activities of such agency affecting its revenue
949 and expenditures as required under Section 7-7-3(6)(d). Any rules
950 and regulation changes related to personal and professional
951 services contracts that the Public Procurement Review Board may
952 propose shall be submitted to the Chairs of the Accountability,
953 Efficiency and Transparency Committees of the Senate and House of



954 Representatives and the Chairs of the Appropriation Committees of
955 the Senate and House of Representatives at least fifteen (15) days
956 before the board votes on the proposed changes, and those rules
957 and regulation changes, if adopted, shall be promulgated in
958 accordance with the Mississippi Administrative Procedures Act;

959 (g) Approve all personal and professional services
960 contracts involving the expenditures of funds in excess of
961 Seventy-five Thousand Dollars (\$75,000.00), except as provided in
962 paragraph (f) of this subsection (2) and in subsection (8);

963 (h) Develop mandatory standards with respect to
964 contractual services personnel that require invitations for public
965 bid, requests for proposals, record keeping and financial
966 responsibility of contractors. The Public Procurement Review
967 Board shall, unless exempted under this paragraph (h) or under
968 paragraph (i) or (o) of this subsection (2), require the agency
969 involved to submit the procurement to a competitive procurement
970 process, and may reserve the right to reject any or all resulting
971 procurements;

972 (i) Prescribe certain circumstances by which agency
973 heads may enter into contracts for personal and professional
974 services without receiving prior approval from the Public
975 Procurement Review Board. The Public Procurement Review Board may
976 establish a preapproved list of providers of various personal and
977 professional services for set prices with which state agencies may
978 contract without bidding or prior approval from the board;



979 (i) Agency requirements may be fulfilled by
980 procuring services performed incident to the state's own programs.
981 The agency head shall determine in writing whether the price
982 represents a fair market value for the services. When the
983 procurements are made from other governmental entities, the
984 private sector need not be solicited; however, these contracts
985 shall still be submitted for approval to the Public Procurement
986 Review Board.

987 (ii) Contracts between two (2) state agencies,
988 both under Public Procurement Review Board purview, shall not
989 require Public Procurement Review Board approval. However, the
990 contracts shall still be entered into the enterprise resource
991 planning system;

992 (j) Provide standards for the issuance of requests for
993 proposals, the evaluation of proposals received, consideration of
994 costs and quality of services proposed, contract negotiations, the
995 administrative monitoring of contract performance by the agency
996 and successful steps in terminating a contract;

997 (k) Present recommendations for governmental
998 privatization and to evaluate privatization proposals submitted by
999 any state agency;

1000 (l) Authorize personal and professional service
1001 contracts to be effective for more than one (1) year provided a
1002 funding condition is included in any such multiple year contract,
1003 except the State Board of Education, which shall have the



1004 authority to enter into contractual agreements for student
1005 assessment for a period up to ten (10) years. The State Board of
1006 Education shall procure these services in accordance with the
1007 Public Procurement Review Board procurement regulations;

1008 (m) Request the State Auditor to conduct a performance
1009 audit on any personal or professional service contract;

1010 (n) Prepare an annual report to the Legislature
1011 concerning the issuance of personal and professional services
1012 contracts during the previous year, collecting any necessary
1013 information from state agencies in making such report;

1014 (o) Develop and implement the following standards and
1015 procedures for the approval of any sole source contract for
1016 personal and professional services regardless of the value of the
1017 procurement:

1018 (i) For the purposes of this paragraph (o), the
1019 term "sole source" means only one (1) source is available that can
1020 provide the required personal or professional service.

1021 (ii) An agency that has been issued a binding,
1022 valid court order mandating that a particular source or provider
1023 must be used for the required service must include a copy of the
1024 applicable court order in all future sole source contract reviews
1025 for the particular personal or professional service referenced in
1026 the court order.

1027 (iii) Any agency alleging to have a sole source
1028 for any personal or professional service, other than those



1029 exempted under paragraph (f) of this subsection (2) and subsection
1030 (8), shall publish on the procurement portal website established
1031 by Sections 25-53-151 and 27-104-165, for at least fourteen (14)
1032 days, the terms of the proposed contract for those services. In
1033 addition, the publication shall include, but is not limited to,
1034 the following information:

1035 1. The personal or professional service
1036 offered in the contract;

1037 2. An explanation of why the personal or
1038 professional service is the only one that can meet the needs of
1039 the agency;

1040 3. An explanation of why the source is the
1041 only person or entity that can provide the required personal or
1042 professional service;

1043 4. An explanation of why the amount to be
1044 expended for the personal or professional service is reasonable;
1045 and

1046 5. The efforts that the agency went through
1047 to obtain the best possible price for the personal or professional
1048 service.

1049 (iv) If any person or entity objects and proposes
1050 that the personal or professional service published under
1051 subparagraph (iii) of this paragraph (o) is not a sole source
1052 service and can be provided by another person or entity, then the
1053 objecting person or entity shall notify the Public Procurement



1054 Review Board and the agency that published the proposed sole
1055 source contract with a detailed explanation of why the personal or
1056 professional service is not a sole source service.

1057 (v) 1. If the agency determines after review that
1058 the personal or professional service in the proposed sole source
1059 contract can be provided by another person or entity, then the
1060 agency must withdraw the sole source contract publication from the
1061 procurement portal website and submit the procurement of the
1062 personal or professional service to an advertised competitive bid
1063 or selection process.

1064 2. If the agency determines after review that
1065 there is only one (1) source for the required personal or
1066 professional service, then the agency may appeal to the Public
1067 Procurement Review Board. The agency has the burden of proving
1068 that the personal or professional service is only provided by one
1069 (1) source.

1070 3. If the Public Procurement Review Board has
1071 any reasonable doubt as to whether the personal or professional
1072 service can only be provided by one (1) source, then the agency
1073 must submit the procurement of the personal or professional
1074 service to an advertised competitive bid or selection process. No
1075 action taken by the Public Procurement Review Board in this appeal
1076 process shall be valid unless approved by a majority of the
1077 members of the Public Procurement Review Board present and voting.



1078 (vi) The Public Procurement Review Board shall
1079 prepare and submit a quarterly report to the House of
1080 Representatives and Senate Accountability, Efficiency and
1081 Transparency Committees that details the sole source contracts
1082 presented to the Public Procurement Review Board and the reasons
1083 that the Public Procurement Review Board approved or rejected each
1084 contract. These quarterly reports shall also include the
1085 documentation and memoranda required in subsection (4) of this
1086 section. An agency that submitted a sole source contract shall be
1087 prepared to explain the sole source contract to each committee by
1088 December 15 of each year upon request by the committee;

1089 (p) Assess any fines and administrative penalties
1090 provided for in Sections 31-7-401 through 31-7-423.

1091 (3) All submissions shall be made sufficiently in advance of
1092 each monthly meeting of the Public Procurement Review Board as
1093 prescribed by the Public Procurement Review Board. If the Public
1094 Procurement Review Board rejects any contract submitted for review
1095 or approval, the Public Procurement Review Board shall clearly set
1096 out the reasons for its action, including, but not limited to, the
1097 policy that the agency has violated in its submitted contract and
1098 any corrective actions that the agency may take to amend the
1099 contract to comply with the rules and regulations of the Public
1100 Procurement Review Board.

1101 (4) All sole source contracts for personal and professional
1102 services awarded by state agencies, other than those exempted



1103 under Section 27-104-7(2) (f) and (8), whether approved by an
1104 agency head or the Public Procurement Review Board, shall contain
1105 in the procurement file a written determination for the approval,
1106 using a request form furnished by the Public Procurement Review
1107 Board. The written determination shall document the basis for the
1108 determination, including any market analysis conducted in order to
1109 ensure that the service required was practicably available from
1110 only one (1) source. A memorandum shall accompany the request
1111 form and address the following four (4) points:

1112 (a) Explanation of why this service is the only service
1113 that can meet the needs of the purchasing agency;

1114 (b) Explanation of why this vendor is the only
1115 practicably available source from which to obtain this service;

1116 (c) Explanation of why the price is considered
1117 reasonable; and

1118 (d) Description of the efforts that were made to
1119 conduct a noncompetitive negotiation to get the best possible
1120 price for the taxpayers.

1121 (5) In conjunction with the State Personnel Board, the
1122 Public Procurement Review Board shall develop and promulgate rules
1123 and regulations to define the allowable legal relationship between
1124 contract employees and the contracting departments, agencies and
1125 institutions of state government under the jurisdiction of the
1126 State Personnel Board, in compliance with the applicable rules and
1127 regulations of the federal Internal Revenue Service (IRS) for



1128 federal employment tax purposes. Under these regulations, the
1129 usual common law rules are applicable to determine and require
1130 that such worker is an independent contractor and not an employee,
1131 requiring evidence of lawful behavioral control, lawful financial
1132 control and lawful relationship of the parties. Any state
1133 department, agency or institution shall only be authorized to
1134 contract for personnel services in compliance with those
1135 regulations.

1136 (6) No member of the Public Procurement Review Board shall
1137 use his or her official authority or influence to coerce, by
1138 threat of discharge from employment, or otherwise, the purchase of
1139 commodities, the contracting for personal or professional
1140 services, or the contracting for public construction under this
1141 chapter.

1142 (7) Notwithstanding any other laws or rules to the contrary,
1143 the provisions of subsection (2) of this section shall not be
1144 applicable to the Mississippi State Port Authority at Gulfport.

1145 (8) Nothing in this section shall impair or limit the
1146 authority of the Board of Trustees of the Public Employees'
1147 Retirement System to enter into any personal or professional
1148 services contracts directly related to their constitutional
1149 obligation to manage the trust funds, including, but not limited
1150 to, actuarial, custodial banks, cash management, investment
1151 consultant and investment management contracts.



1152 (9) Notwithstanding the exemption of personal and
1153 professional services contracts entered into by the Department of
1154 Human Services and personal and professional services contracts
1155 entered into by the Department of Child Protection Services from
1156 the provisions of this section under subsection (2)(f), before the
1157 Department of Human Services or the Department of Child Protection
1158 Services may enter into a personal or professional service
1159 contract, the department(s) shall give notice of the proposed
1160 personal or professional service contract to the Public
1161 Procurement Review Board for any recommendations by the board.
1162 Upon receipt of the notice, the board shall post the notice on its
1163 website and on the procurement portal website established by
1164 Sections 25-53-151 and 27-104-165. If the board does not respond
1165 to the department(s) within seven (7) calendar days after
1166 receiving the notice, the department(s) may enter the proposed
1167 personal or professional service contract. If the board responds
1168 to the department(s) within seven (7) calendar days, then the
1169 board has seven (7) calendar days from the date of its initial
1170 response to provide any additional recommendations. After the end
1171 of the second seven-day period, the department(s) may enter the
1172 proposed personal or professional service contract. The board is
1173 not authorized to disapprove any proposed personal or professional
1174 services contracts. This subsection shall stand repealed on July
1175 1, 2022.



1176 (10) Through December 31, 2024, the provisions of this
1177 section related to rental agreements or leasing of real property
1178 for the purpose of conducting agency business shall not apply to
1179 the Office of Workforce Development created in Section 37-153-7.

1180 **SECTION 5.** Section 71-5-355, Mississippi Code of 1972, is
1181 amended as follows:

1182 71-5-355. (1) As used in this section, the following words
1183 and phrases shall have the following meanings, unless the context
1184 clearly requires otherwise:

1185 (a) "Tax year" means any period beginning on January 1
1186 and ending on December 31 of a year.

1187 (b) "Computation date" means June 30 of any calendar
1188 year immediately preceding the tax year during which the
1189 particular contribution rates are effective.

1190 (c) "Effective date" means January 1 of the tax year.

1191 (d) Except as hereinafter provided, "payroll" means the
1192 total of all wages paid for employment by an employer as defined
1193 in Section 71-5-11, subsection H, plus the total of all
1194 remuneration paid by such employer excluded from the definition of
1195 wages by Section 71-5-351. For the computation of modified rates,
1196 "payroll" means the total of all wages paid for employment by an
1197 employer as defined in Section 71-5-11, subsection H.

1198 (e) For the computation of modified rates, "eligible
1199 employer" means an employer whose experience-rating record has
1200 been chargeable with benefits throughout the thirty-six (36)



1201 consecutive calendar-month period ending on the computation date,
1202 except that any employer who has not been subject to the
1203 Mississippi Employment Security Law for a period of time
1204 sufficient to meet the thirty-six (36) consecutive calendar-month
1205 requirement shall be an eligible employer if his or her
1206 experience-rating record has been chargeable throughout not less
1207 than the twelve (12) consecutive calendar-month period ending on
1208 the computation date. No employer shall be considered eligible
1209 for a contribution rate less than five and four-tenths percent
1210 (5.4%) with respect to any tax year, who has failed to file any
1211 two (2) quarterly reports within the qualifying period by
1212 September 30 following the computation date. No employer or
1213 employing unit shall be eligible for a contribution rate of less
1214 than five and four-tenths percent (5.4%) for the tax year in which
1215 the employing unit is found by the department to be in violation
1216 of Section 71-5-19(2) or (3) and for the next two (2) succeeding
1217 tax years. No representative of such employing unit who was a
1218 party to a violation as described in Section 71-5-19(2) or (3), if
1219 such representative was or is an employing unit in this state,
1220 shall be eligible for a contribution rate of less than five and
1221 four-tenths percent (5.4%) for the tax year in which such
1222 violation was detected by the department and for the next two (2)
1223 succeeding tax years.

1224 (f) With respect to any tax year, "reserve ratio" means
1225 the ratio which the total amount available for the payment of



1226 benefits in the Unemployment Compensation Fund, excluding any
1227 amount which has been credited to the account of this state under
1228 Section 903 of the Social Security Act, as amended, and which has
1229 been appropriated for the expenses of administration pursuant to
1230 Section 71-5-457 whether or not withdrawn from such account, on
1231 October 31 (close of business) of each calendar year bears to the
1232 aggregate of the taxable payrolls of all employers for the twelve
1233 (12) calendar months ending on June 30 next preceding.

1234 (g) "Modified rates" means the rates of employer
1235 unemployment insurance contributions determined under the
1236 provisions of this chapter and the rates of newly subject
1237 employers, as provided in Section 71-5-353.

1238 (h) For the computation of modified rates, "qualifying
1239 period" means a period of not less than the thirty-six (36)
1240 consecutive calendar months ending on the computation date
1241 throughout which an employer's experience-rating record has been
1242 chargeable with benefits; except that with respect to any eligible
1243 employer who has not been subject to this article for a period of
1244 time sufficient to meet the thirty-six (36) consecutive
1245 calendar-month requirement, "qualifying period" means the period
1246 ending on the computation date throughout which his or her
1247 experience-rating record has been chargeable with benefits, but in
1248 no event less than the twelve (12) consecutive calendar-month
1249 period ending on the computation date throughout which his or her
1250 experience-rating record has been so chargeable.



1251 (i) The "exposure criterion" (EC) is defined as the
1252 cash balance of the Unemployment Compensation Fund which is
1253 available for the payment of benefits as of November 16 of each
1254 calendar year or the next working day if November 16 falls on a
1255 holiday or a weekend, divided by the total wages, exclusive of
1256 wages paid by all state agencies, all political subdivisions,
1257 reimbursable nonprofit corporations, and tax-exempt public service
1258 employment, for the twelve-month period ending June 30 immediately
1259 preceding such date. The EC shall be computed to four (4) decimal
1260 places and rounded up if any fraction remains. Notwithstanding
1261 any other provision contained herein, the date for determining the
1262 cash balance of the Unemployment Compensation Fund which is
1263 available for the payment of benefits for the calendar years 2020
1264 and 2021 shall be December 31.

1265 (j) The "cost rate criterion" (CRC) is defined as
1266 follows: Beginning with January 1974, the benefits paid for the
1267 twelve-month period ending December 1974 are summed and divided by
1268 the total wages for the twelve-month period ending on June 30,
1269 1975. Similar ratios are computed by subtracting the earliest
1270 month's benefit payments and adding the benefits of the next month
1271 in the sequence and dividing each sum of twelve (12) months'
1272 benefits by the total wages for the twelve-month period ending on
1273 the June 30 which is nearest to the final month of the period used
1274 to compute the numerator. If December is the final month of the
1275 period used to compute the numerator, then the twelve-month period



1276 ending the following June 30 will be used for the denominator.
1277 Benefits and total wages used in the computation of the cost rate
1278 criterion shall exclude all benefits and total wages applicable to
1279 state agencies, political subdivisions, reimbursable nonprofit
1280 corporations, and tax-exempt PSE employment.

1281 The CRC shall be computed as the average for the highest
1282 monthly value of the cost rate criterion computations during each
1283 of the economic cycles since the calendar year 1974 as defined by
1284 the National Bureau of Economic Research. The CRC shall be
1285 computed to four (4) decimal places and any remainder shall be
1286 rounded up.

1287 The CRC shall be adjusted only through annual computations
1288 and additions of future economic cycles.

1289 (k) "Size of fund index" (SOFI) is defined as the ratio
1290 of the exposure criterion (EC) to the cost rate criterion (CRC).
1291 The target size of fund index will be fixed at 1.0. If the
1292 insured unemployment rate (IUR) exceeds a four and five-tenths
1293 percent (4.5%) average for the most recent completed July to June
1294 period, the target SOFI will be .8 and will remain at that level
1295 until the computed SOFI (the average exposure criterion of the
1296 current year and the preceding year divided by the average cost
1297 rate criterion) equals 1.0 or the average IUR falls to four and
1298 five-tenths percent (4.5%) or less for any period July to June.
1299 However, if the IUR falls below two and five-tenths percent (2.5%)
1300 for any period July to June the target SOFI shall be 1.2 until



1301 such time as the computed SOFI is equal to or greater than 1.0 or
1302 the IUR is equal to or greater than two and five-tenths percent
1303 (2.5%), at which point the target SOFI shall return to 1.0.

1304 (1) No employer's unemployment contribution general
1305 experience rate plus individual unemployment experience rate shall
1306 exceed five and four-tenths percent (5.4%). Accrual rules shall
1307 apply for purposes of computing contribution rates including
1308 associated functions.

1309 (m) The term "general experience rate" has the same
1310 meaning as the minimum tax rate.

1311 (2) Modified rates:

1312 (a) For any tax year, when the reserve ratio on the
1313 preceding November 16, in the case of any tax year, equals or
1314 exceeds three percent (3%), the modified rates, as hereinafter
1315 prescribed, shall be in effect. In computation of this reserve
1316 ratio, any remainder shall be rounded down.

1317 (b) Modified rates shall be determined for the tax year
1318 for each eligible employer on the basis of his or her
1319 experience-rating record in the following manner:

1320 (i) The department shall maintain an
1321 experience-rating record for each employer. Nothing in this
1322 chapter shall be construed to grant any employer or individuals
1323 performing services for him or her any prior claim or rights to
1324 the amounts paid by the employer into the fund.



1325 (ii) Benefits paid to an eligible individual shall
1326 be charged against the experience-rating record of his or her base
1327 period employers in the proportion to which the wages paid by each
1328 base period employer bears to the total wages paid to the
1329 individual by all the base period employers, provided that
1330 benefits shall not be charged to an employer's experience-rating
1331 record if the department finds that the individual:

1332 1. Voluntarily left the employ of such
1333 employer without good cause attributable to the employer or to
1334 accept other work;

1335 2. Was discharged by such employer for
1336 misconduct connected with his or her work;

1337 3. Refused an offer of suitable work by such
1338 employer without good cause, and the department further finds that
1339 such benefits are based on wages for employment for such employer
1340 prior to such voluntary leaving, discharge or refusal of suitable
1341 work, as the case may be;

1342 4. Had base period wages which included wages
1343 for previously uncovered services as defined in Section
1344 71-5-511(e) to the extent that the Unemployment Compensation Fund
1345 is reimbursed for such benefits pursuant to Section 121 of Public
1346 Law 94-566;

1347 5. Extended benefits paid under the
1348 provisions of Section 71-5-541 which are not reimbursable from



1349 federal funds shall be charged to the experience-rating record of
1350 base period employers;

1351 6. Is still working for such employer on a
1352 regular part-time basis under the same employment conditions as
1353 hired. Provided, however, that benefits shall be charged against
1354 an employer if an eligible individual is paid benefits who is
1355 still working for such employer on a part-time "as-needed" basis;

1356 7. Was hired to replace a United States
1357 serviceman or servicewoman called into active duty and was laid
1358 off upon the return to work by that serviceman or servicewoman,
1359 unless such employer is a state agency or other political
1360 subdivision or instrumentality of the state;

1361 8. Was paid benefits during any week while in
1362 training with the approval of the department, under the provisions
1363 of Section 71-5-513B, or for any week while in training approved
1364 under Section 236(a)(1) of the Trade Act of 1974, under the
1365 provisions of Section 71-5-513C;

1366 9. Is not required to serve the one-week
1367 waiting period as described in Section 71-5-505(2). In that
1368 event, only the benefits paid in lieu of the waiting period week
1369 may be noncharged; or

1370 10. Was paid benefits as a result of a
1371 fraudulent claim, provided notification was made to the
1372 Mississippi Department of Employment Security in writing or by



1373 email by the employer, within ten (10) days of the mailing of the
1374 notice of claim filed to the employer's last-known address.

1375 (iii) Notwithstanding any other provision
1376 contained herein, an employer shall not be noncharged when the
1377 department finds that the employer or the employer's agent of
1378 record was at fault for failing to respond timely or adequately to
1379 the request of the department for information relating to an
1380 unemployment claim that was subsequently determined to be
1381 improperly paid, unless the employer or the employer's agent of
1382 record shows good cause for having failed to respond timely or
1383 adequately to the request of the department for information. For
1384 purposes of this subparagraph "good cause" means an event that
1385 prevents the employer or employer's agent of record from timely
1386 responding, and includes a natural disaster, emergency or similar
1387 event, or an illness on the part of the employer, the employer's
1388 agent of record, or their staff charged with responding to such
1389 inquiries when there is no other individual who has the knowledge
1390 or ability to respond. Any agency error that resulted in a delay
1391 in, or the failure to deliver notice to, the employer or the
1392 employer's agent of record shall also be considered good cause for
1393 purposes of this subparagraph.

1394 (iv) The department shall compute a benefit ratio
1395 for each eligible employer, which shall be the quotient obtained
1396 by dividing the total benefits charged to his or her
1397 experience-rating record during the period his or her



1398 experience-rating record has been chargeable, but not less than
1399 the twelve (12) consecutive calendar-month period nor more than
1400 the thirty-six (36) consecutive calendar-month period ending on
1401 the computation date, by his or her total taxable payroll for the
1402 same period on which all unemployment insurance contributions due
1403 have been paid on or before the September 30 immediately following
1404 the computation date. Such benefit ratio shall be computed to the
1405 tenth of a percent (.1%), rounding any remainder to the next
1406 higher tenth.

1407 (v) 1. The unemployment insurance contribution
1408 rate for each eligible employer shall be the sum of two (2) rates:
1409 his or her individual experience rate in the range from zero
1410 percent (0%) to five and four-tenths percent (5.4%), plus a
1411 general experience rate. In no event shall the resulting
1412 unemployment insurance rate be in excess of five and four-tenths
1413 percent (5.4%), however, it is the intent of this section to
1414 provide the ability for employers to have a tax rate, the general
1415 experience rate plus the individual experience rate, of up to five
1416 and four-tenths percent (5.4%).

1417 2. The employer's individual experience rate
1418 shall be equal to his or her benefit ratio as computed under
1419 paragraph (b)(iv) of this subsection (2).

1420 3. The general experience rate shall be
1421 determined in the following manner: The department shall
1422 determine annually, for the thirty-six (36) consecutive



1423 calendar-month period ending on the computation date, the amount
1424 of benefits which were not charged to the record of any employer
1425 and of benefits which were ineffectively charged to the employer's
1426 experience-rating record. For the purposes of this item 3, the
1427 term "ineffectively charged benefits" shall include:

1428 a. The total of the amounts of benefits
1429 charged to the experience-rating records of all eligible employers
1430 which caused their benefit ratios to exceed five and four-tenths
1431 percent (5.4%);

1432 b. The total of the amounts of benefits
1433 charged to the experience-rating records of all ineligible
1434 employers which would cause their benefit ratios to exceed five
1435 and four-tenths percent (5.4%) if they were eligible employers;
1436 and

1437 c. The total of the amounts of benefits
1438 charged or chargeable to the experience-rating record of any
1439 employer who has discontinued his or her business or whose
1440 coverage has been terminated within such period; provided, that
1441 solely for the purposes of determining the amounts of
1442 ineffectively charged benefits as herein defined, a "benefit
1443 ratio" shall be computed for each ineligible employer, which shall
1444 be the quotient obtained by dividing the total benefits charged to
1445 his or her experience-rating record throughout the period ending
1446 on the computation date, during which his or her experience-rating
1447 record has been chargeable with benefits, by his or her total



1448 taxable payroll for the same period on which all unemployment
1449 insurance contributions due have been paid on or before the
1450 September 30 immediately following the computation date; and
1451 provided further, that such benefit ratio shall be computed to the
1452 tenth of one percent (.1%) and any remainder shall be rounded to
1453 the next higher tenth.

1454 The ratio of the sum of these amounts (subsection
1455 (2)(b)(v)3a, b and c) to the taxable wages paid during the same
1456 period divided by all eligible employers whose benefit ratio did
1457 not exceed five and four-tenths percent (5.4%), computed to the
1458 next higher tenth of one percent (.1%), shall be the general
1459 experience rate; however, the general experience rate for rate
1460 year 2014 shall be two tenths of one percent (.2%) and to that
1461 will be added the employer's individual experience rate for the
1462 total unemployment insurance rate.

1463 4. a. Except as otherwise provided in this
1464 item 4, the general experience rate shall be adjusted by use of
1465 the size of fund index factor. This factor may be positive or
1466 negative, and shall be determined as follows: From the target
1467 SOFI, as defined in subsection (1)(k) of this section, subtract
1468 the simple average of the current and preceding years' exposure
1469 criteria divided by the cost rate criterion, as defined in
1470 subsection (1)(j) of this section. The result is then multiplied
1471 by the product of the CRC, as defined in subsection (1)(j) of this
1472 section, and total wages for the twelve-month period ending June



1473 30 divided by the taxable wages for the twelve-month period ending
1474 June 30. This is the percentage positive or negative added to the
1475 general experience rate. The sum of the general experience rate
1476 and the trust fund adjustment factor shall be multiplied by fifty
1477 percent (50%) and this product shall be computed to one (1)
1478 decimal place, and rounded to the next higher tenth.

1479 b. Notwithstanding the minimum rate
1480 provisions as set forth in subsection (1)(1) of this section, the
1481 general experience rate of all employers shall be reduced by seven
1482 one-hundredths of one percent (.07%) for calendar year 2013 only.

1483 5. The general experience rate shall be zero
1484 percent (0%) unless the general experience ratio for any tax year
1485 as computed and adjusted on the basis of the trust fund adjustment
1486 factor and reduced by fifty percent (50%) is an amount equal to or
1487 greater than two-tenths of one percent (.2%), then the general
1488 experience rate shall be the computed general experience ratio and
1489 adjusted on the basis of the trust fund adjustment factor and
1490 reduced by fifty percent (50%); however, in no case shall the sum
1491 of the general experience plus the individual experience
1492 unemployment insurance rate exceed five and four-tenths percent
1493 (5.4%). For rate years subsequent to 2014, Mississippi Workforce
1494 Enhancement Training contribution rate, and/or * * * Mississippi
1495 K-12 Workforce Development Grant Program contribution rate, and/or
1496 Mississippi Works contribution rate, when in effect, shall be
1497 added to the unemployment contribution rate, regardless of whether



1498 the addition of this contribution rate causes the total
1499 contribution rate for the employer to exceed five and four-tenths
1500 percent (5.4%).

1501 6. The department shall include in its annual
1502 rate notice to employers a brief explanation of the elements of
1503 the general experience rate, and shall include in its regular
1504 publications an annual analysis of benefits not charged to the
1505 record of any employer, and of the benefit experience of employers
1506 by industry group whose benefit ratio exceeds four percent (4%),
1507 and of any other factors which may affect the size of the general
1508 experience rate.

1509 7. Notwithstanding any other provision
1510 contained herein, the general experience rate for calendar year
1511 2021 shall be zero percent (0%). Charges attributed to each
1512 employer's individual experience rate for the period March 8,
1513 2020, through June 30, 2020, will not impact the employer's
1514 individual experience rate calculations for purposes of
1515 calculating the total unemployment insurance rate for 2021 and the
1516 two (2) subsequent tax rate years. Moreover, charges attributed
1517 to each employer's individual experience rate for the period July
1518 1, 2020, through December 31, 2020, will not impact the employer's
1519 individual experience rate calculations for purposes of
1520 calculating the total unemployment insurance rate for 2022 and the
1521 two (2) subsequent tax rate years.



1522 (vi) When any employing unit in any manner
1523 succeeds to or acquires the organization, trade, business or
1524 substantially all the assets thereof of an employer, excepting any
1525 assets retained by such employer incident to the liquidation of
1526 his or her obligations, whether or not such acquiring employing
1527 unit was an employer within the meaning of Section 71-5-11,
1528 subsection H, prior to such acquisition, and continues such
1529 organization, trade or business, the experience-rating and payroll
1530 records of the predecessor employer shall be transferred as of the
1531 date of acquisition to the successor employer for the purpose of
1532 rate determination.

1533 (vii) When any employing unit succeeds to or
1534 acquires a distinct and severable portion of an organization,
1535 trade or business, the experience-rating and payroll records of
1536 such portion, if separately identifiable, shall be transferred to
1537 the successor upon:

1538 1. The mutual consent of the predecessor and
1539 the successor;

1540 2. Approval of the department;

1541 3. Continued operation of the transferred
1542 portion by the successor after transfer; and

1543 4. The execution and the filing with the
1544 department by the predecessor employer of a waiver relinquishing
1545 all rights to have the experience-rating and payroll records of



1546 the transferred portion used for the purpose of determining
1547 modified rates of contribution for such predecessor.

1548 (viii) If the successor was an employer subject to
1549 this chapter prior to the date of acquisition, it shall continue
1550 to pay unemployment insurance contributions at the rate applicable
1551 to it from the date the acquisition occurred until the end of the
1552 then current tax year. If the successor was not an employer prior
1553 to the date of acquisition, it shall pay unemployment insurance
1554 contributions at the rate applicable to the predecessor or, if
1555 more than one (1) predecessor and the same rate is applicable to
1556 both, the rate applicable to the predecessor or predecessors, from
1557 the date the acquisition occurred until the end of the then
1558 current tax year. If the successor was not an employer prior to
1559 the date the acquisition occurred and simultaneously acquires the
1560 businesses of two (2) or more employers to whom different rates of
1561 unemployment insurance contributions are applicable, it shall pay
1562 unemployment insurance contributions from the date of the
1563 acquisition until the end of the current tax year at a rate
1564 computed on the basis of the combined experience-rating and
1565 payroll records of the predecessors as of the computation date for
1566 such tax year. In all cases the rate of unemployment insurance
1567 contributions applicable to such successor for each succeeding tax
1568 year shall be computed on the basis of the combined
1569 experience-rating and payroll records of the successor and the
1570 predecessor or predecessors.



1571 (ix) The department shall notify each employer
1572 quarterly of the benefits paid and charged to his or her
1573 experience-rating record; and such notification, in the absence of
1574 an application for redetermination filed within thirty (30) days
1575 after the date of such notice, shall be final, conclusive and
1576 binding upon the employer for all purposes. A redetermination,
1577 made after notice and opportunity for a fair hearing, by a hearing
1578 officer designated by the department who shall consider and decide
1579 these and related applications and protests; and the finding of
1580 fact in connection therewith may be introduced into any subsequent
1581 administrative or judicial proceedings involving the determination
1582 of the rate of unemployment insurance contributions of any
1583 employer for any tax year, and shall be entitled to the same
1584 finality as is provided in this subsection with respect to the
1585 findings of fact in proceedings to redetermine the contribution
1586 rate of an employer.

1587 (x) The department shall notify each employer of
1588 his or her rate of contribution as determined for any tax year as
1589 soon as reasonably possible after September 1 of the preceding
1590 year. Such determination shall be final, conclusive and binding
1591 upon such employer unless, within thirty (30) days after the date
1592 of such notice to his or her last-known address, the employer
1593 files with the department an application for review and
1594 redetermination of his or her contribution rate, setting forth his
1595 or her reasons therefor. If the department grants such review,



1596 the employer shall be promptly notified thereof and shall be
1597 afforded an opportunity for a fair hearing by a hearing officer
1598 designated by the department who shall consider and decide these
1599 and related applications and protests; but no employer shall be
1600 allowed, in any proceeding involving his or her rate of
1601 unemployment insurance contributions or contribution liability, to
1602 contest the chargeability to his or her account of any benefits
1603 paid in accordance with a determination, redetermination or
1604 decision pursuant to Sections 71-5-515 through 71-5-533 except
1605 upon the ground that the services on the basis of which such
1606 benefits were found to be chargeable did not constitute services
1607 performed in employment for him or her, and then only in the event
1608 that he or she was not a party to such determination,
1609 redetermination, decision or to any other proceedings provided in
1610 this chapter in which the character of such services was
1611 determined. The employer shall be promptly notified of the denial
1612 of this application or of the redetermination, both of which shall
1613 become final unless, within ten (10) days after the date of notice
1614 thereof, there shall be an appeal to the department itself. Any
1615 such appeal shall be on the record before said designated hearing
1616 officer, and the decision of said department shall become final
1617 unless, within thirty (30) days after the date of notice thereof
1618 to the employer's last-known address, there shall be an appeal to
1619 the Circuit Court of the First Judicial District of Hinds County,



1620 Mississippi, in accordance with the provisions of law with respect
1621 to review of civil causes by certiorari.

1622 (3) Notwithstanding any other provision of law, the
1623 following shall apply regarding assignment of rates and transfers
1624 of experience:

1625 (a) (i) If an employer transfers its trade or
1626 business, or a portion thereof, to another employer and, at the
1627 time of the transfer, there is substantially common ownership,
1628 management or control of the two (2) employers, then the
1629 unemployment experience attributable to the transferred trade or
1630 business shall be transferred to the employer to whom such
1631 business is so transferred. The rates of both employers shall be
1632 recalculated and made effective on January 1 of the year following
1633 the year the transfer occurred.

1634 (ii) If, following a transfer of experience under
1635 subparagraph (i) of this paragraph (a), the department determines
1636 that a substantial purpose of the transfer of trade or business
1637 was to obtain a reduced liability of unemployment insurance
1638 contributions, then the experience-rating accounts of the
1639 employers involved shall be combined into a single account and a
1640 single rate assigned to such account.

1641 (b) Whenever a person who is not an employer or an
1642 employing unit under this chapter at the time it acquires the
1643 trade or business of an employer, the unemployment experience of
1644 the acquired business shall not be transferred to such person if



1645 the department finds that such person acquired the business solely
1646 or primarily for the purpose of obtaining a lower rate of
1647 unemployment insurance contributions. Instead, such person shall
1648 be assigned the new employer rate under Section 71-5-353, unless
1649 assignment of the new employer rate results in an increase of less
1650 than two percent (2%), in which case such person would be assigned
1651 the new employer rate plus an additional two percent (2%) penalty
1652 for the rate year. In determining whether the business was
1653 acquired solely or primarily for the purpose of obtaining a lower
1654 rate of unemployment insurance contributions, the department shall
1655 use objective factors which may include the cost of acquiring the
1656 business, whether the person continued the business enterprise of
1657 the acquired business, how long such business enterprise was
1658 continued, or whether a substantial number of new employees were
1659 hired for performance of duties unrelated to the business activity
1660 conducted prior to acquisition.

1661 (c) (i) If a person knowingly violates or attempts to
1662 violate paragraph (a) or (b) of this subsection or any other
1663 provision of this chapter related to determining the assignment of
1664 a contribution rate, or if a person knowingly advises another
1665 person in a way that results in a violation of such provision, the
1666 person shall be subject to the following penalties:

1667 1. If the person is an employer, then such
1668 employer shall be assigned the highest rate assignable under this
1669 chapter for the rate year during which such violation or attempted



1670 violation occurred and the three (3) rate years immediately
1671 following this rate year. However, if the person's business is
1672 already at such highest rate for any year, or if the amount of
1673 increase in the person's rate would be less than two percent (2%)
1674 for such year, then the person's tax rate shall be increased by
1675 two percent (2%) for such year. The penalty rate will apply to
1676 the successor business as well as the related entity from which
1677 the employees were transferred in an effort to obtain a lower rate
1678 of unemployment insurance contributions.

1679 2. If the person is not an employer, such
1680 person shall be subject to a civil money penalty of not more than
1681 Five Thousand Dollars (\$5,000.00). Each such transaction for
1682 which advice was given and each occurrence or reoccurrence after
1683 notification being given by the department shall be a separate
1684 offense and punishable by a separate penalty. Any such fine shall
1685 be deposited in the penalty and interest account established under
1686 Section 71-5-114.

1687 (ii) For purposes of this paragraph (c), the term
1688 "knowingly" means having actual knowledge of or acting with
1689 deliberate ignorance or reckless disregard for the prohibition
1690 involved.

1691 (iii) For purposes of this paragraph (c), the term
1692 "violates or attempts to violate" includes, but is not limited to,
1693 intent to evade, misrepresentation or willful nondisclosure.



1694 (iv) In addition to the penalty imposed by
1695 subparagraph (i) of this paragraph (c), any violation of this
1696 subsection may be punishable by a fine of not more than Ten
1697 Thousand Dollars (\$10,000.00) or by imprisonment for not more than
1698 five (5) years, or by both such fine and imprisonment. This
1699 subsection shall prohibit prosecution under any other criminal
1700 statute of this state.

1701 (d) The department shall establish procedures to
1702 identify the transfer or acquisition of a business for purposes of
1703 this subsection.

1704 (e) For purposes of this subsection:

1705 (i) "Person" has the meaning given such term by
1706 Section 7701(a)(1) of the Internal Revenue Code of 1986; and

1707 (ii) "Employing unit" has the meaning as set forth
1708 in Section 71-5-11.

1709 (f) This subsection shall be interpreted and applied in
1710 such a manner as to meet the minimum requirements contained in any
1711 guidance or regulations issued by the United States Department of
1712 Labor.

1713 **SECTION 6.** Section 71-5-453, Mississippi Code of 1972, is
1714 amended as follows:

1715 71-5-453. The department shall be the treasurer and
1716 custodian of the fund, and shall administer such fund in
1717 accordance with the directions of the department, and shall issue
1718 its warrants upon it in accordance with such regulations as the



1719 department shall prescribe. The department shall maintain within
1720 the fund three (3) separate accounts: (a) a clearing account, (b)
1721 an unemployment trust fund account, and (c) a benefit payment
1722 account. All monies payable to the fund, upon receipt thereof by
1723 the department, shall be immediately deposited in the clearing
1724 account. Refunds payable pursuant to Section 71-5-383 may be paid
1725 from the clearing account by the department. Transfers pursuant
1726 to Section 71-5-114 of all interest, penalties and damages
1727 collected shall be made to the Special Employment Security
1728 Administration Fund as soon as practicable after the end of each
1729 calendar quarter. Workforce Enhancement Training
1730 contributions, * * * Mississippi K-12 Workforce Development Grant
1731 Program contributions and Mississippi Works contributions shall be
1732 deposited into the Workforce Investment and Training Holding
1733 Account as described in this section. All other monies in the
1734 clearing account shall be immediately deposited with the Secretary
1735 of the Treasury of the United States of America to the
1736 Unemployment Trust Fund account for the State of Mississippi,
1737 established and maintained pursuant to Section 904 of the Social
1738 Security Act, as amended, any provisions of law in this state
1739 relating to the deposit, administration, release or disbursement
1740 of monies in the possession or custody of this state to the
1741 contrary notwithstanding. The benefit account shall consist of
1742 all monies requisitioned from this state's account in the
1743 Unemployment Trust Fund. Except as herein otherwise provided,



1744 monies in the clearing and benefit accounts may be deposited by
1745 the department, in any bank or public depository in which general
1746 funds of the state may be deposited, but no public deposit
1747 insurance charge or premium shall be paid out of the fund. The
1748 department shall be liable for the faithful performance of its
1749 duties in connection with the Unemployment Compensation Fund under
1750 this chapter. A Workforce Investment and Training Holding Account
1751 shall be established by and maintained under the control of the
1752 Mississippi Department of Employment Security. Contributions
1753 collected pursuant to the provisions in this chapter for the
1754 Workforce Enhancement Training Fund, * * * Mississippi K-12
1755 Workforce Development Grant Program Fund and the Mississippi Works
1756 Fund shall be transferred from the clearing account into the
1757 Workforce Investment and Training Holding Account on the same
1758 schedule and under the same conditions as funds transferred to the
1759 Unemployment Compensation Fund. Such funds shall remain on
1760 deposit in the holding account for a period of thirty (30) days.
1761 After such period, Workforce Enhancement Training contributions
1762 shall be transferred to the appropriate Mississippi Community
1763 College Board Treasury Account, with oversight provided by the
1764 Mississippi Office of Workforce Development, by the department.
1765 The * * * Mississippi K-12 Workforce Development Grant program
1766 contributions shall be transferred to the * * * Mississippi K-12
1767 Workforce Development Grant Program Treasury Account for the
1768 Mississippi K-12 Workforce Development Grant Program Fund. The



1769 Mississippi Works contributions shall be transferred to the
1770 Mississippi Department of Employment Security Treasury Account for
1771 the Mississippi Works Fund. Such transfers shall occur within
1772 fifteen (15) days after the funds have resided in the Workforce
1773 Investment and Training Holding Account for thirty (30) days. One
1774 (1) such transfer shall be made monthly, but the department, in
1775 its discretion, may make additional transfers in any month. In
1776 the event such funds transferred are subsequently determined to be
1777 erroneously paid or collected, or if deposit of such funds is
1778 denied or rejected by the banking institution for any reason, or
1779 deposits are unable to clear drawer's account for any reason, the
1780 funds must be reimbursed by the recipient of such funds within
1781 thirty (30) days of mailing of notice by the department demanding
1782 such refund, unless funds are available in the Workforce
1783 Investment and Training Holding Account. In that event such
1784 amounts shall be immediately withdrawn from the Workforce
1785 Investment and Training Holding Account by the department and
1786 redeposited into the clearing account.

1787 **SECTION 7.** Section 37-153-63, Mississippi Code of 1972, is
1788 amended as follows:

1789 37-153-63. * * * Grant funds shall be available under this
1790 act through December 31, 2026, or on the date of the fund
1791 expenditure deadline provided by the federal government, whichever
1792 occurs later. Each grant recipient shall certify, for any project
1793 for which a grant is awarded, that if the project is not completed



1794 by December 31, 2026, and the United States Congress does not
1795 enact an extension of the deadline on the availability of ARPA
1796 funds, then the grant recipient will complete the project through
1797 other funds.

1798 **SECTION 8.** This act shall take effect and be in force from
1799 and after July 1, 2023.

